

LOCAL RULES
UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS

JANUARY 1, 1993

**With Rule 1020, effective January 1, 1997, and
Amended Rule 3003, effective January 1, 1999.**

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TABLE OF CONTENTS

	PAGE
Rule 1001 General	1
Rule 1002 Voluntary petitions	2
Rule 1003 Involuntary petitions	3
Rule 1007 Supporting documents	3
Rule 1009 Amendments of voluntary petitions and their supporting documents	4
Rule 1015 Joint administration, and consolidation	4
Rule 1017 Dismissals	5
Rule 1019 Conversion of Chapter 11, 12, or 13 cases to Chapter 7	6
Rule 1020 Expedited Chapter 11 Reorganization	6
Rule 2002 Notices to creditors, equity security holders and United States	7
Rule 2004 Examination	7
Rule 2014 Applications to employ professional persons	8
Rule 2015 Duty to report under Chapter 7, 11, 12 and 13	9
Rule 2016 Compensation and reimbursement	9
Rule 3002 Notice of filing of proofs	11
Rule 3003 Timing of proofs of claims in Chapter 11	11
Rule 3007 Objections to claims	11
Rule 3017 Notice of disclosure statement in Chapter 11 cases	13
Rule 3020 Confirmation of Chapter 13 plans	13
Rule 4001 Relief from stay; cash collateral; credit; agreements	14
Rule 4002 Duties of debtors-in-possession	17
Rule 4003 Exemptions	18
Rule 4008 Reaffirmation agreements	19
Rule 5001 Registry of the court and costs	19
Rule 5005 Filing of papers	20
Rule 5011 Withdrawal of reference	20
Rule 6004 Use, sale, or lease of property	21
Rule 6005 Auctioneers	21
Rule 6007 Abandonment of property under Chapter 7	22
Rule 7003 Cover sheet	22
Rule 7004 Summons	23
Rule 7007 Motions in adversary proceedings	23
Rule 7016 Pretrial orders	23
Rule 7041 Settlement	24
Rule 7042 Consolidation of adversary proceedings	24
Rule 7055 Motions for default judgment	24
Rule 8007 Record designation on appeal	24
Rule 9001 General definitions	25
Rule 9003 Motions ex parte	25
Rule 9004 General requirements of form	25
Rule 9006 Requests for extension of time	26
Rule 9013 Motion requirements	26
Rule 9027 Removal	29

LOCAL RULES
of the
UNITED STATES BANKRUPTCY COURT
for the
SOUTHERN DISTRICT OF TEXAS

Rule 1001. General.

- (a) These are the Local Rules of the United States Bankruptcy Court for the Southern District of Texas, adopted under Federal Rule of Bankruptcy Procedure 9029 for all proceedings under Title 11 of the United States Code.
- (b) These rules are effective January 1, 1993. These rules supersede the local rules previously adopted on April 1, 1989.
- (c) They may be cited as the "Bankruptcy Local Rules" or "BLR", with the Local Rules of the District Court cited as "DLR." The Federal Rules of Bankruptcy Procedure may be cited as "FRBP," "BR," or "Bankruptcy Rules."
- (d) On motion or sua sponte, a judge may avoid or modify these rules for the convenience of the parties or in the interest of justice.
- (e) Admission, designation, and discipline are governed by the local rules of the district court.
- (f) Traditional, formal courtroom etiquette is required of all who appear in court as illustrated in Appendix A.
- (g) Supplements and amendments to all applications, schedules, and reports shall be clearly marked to identify added or changed information.
- (h) All papers filed must be accompanied by a certificate of service under BLR 9013. The certificate of service may be filed contemporaneously with the substantive pleading as a separate document as long as the pleading to which it pertains is fully identified and the pleading to which it pertains contains a statement by counsel that the certificate of service has been filed as a separate document contemporaneously with the substantive pleading. Although the parties whom the rules require to be served vary, every certificate of service must contain: names and addresses of those served, manner of service, and name and address of the server and date served. The certificate of service must be signed by counsel. If service is not required, the certificate of service must explain why service is obviated.
- (i) Orders. Proposed orders must be filed with motions and oppositions.
 - (1) The orders must follow Federal Rules of Civil Procedure 54(a) and 58. They must be in a separate document and must omit citations.

- (2) The terms of the order must describe the relief granted or denied with particularity, briefly, and without reference to another document unless the document is an attachment to the order.
- (j) Definitions.
- (1) Except when a matter is before a district court, references to "court," "judge," and "clerk" mean "United States Bankruptcy Court," "bankruptcy judge," and "clerk of the United States Bankruptcy Court."
 - (2) "Supporting documents" means all lists, statements, schedules, plans, and similar instruments required by the statutes or rules to accompany or follow a filing in bankruptcy.
 - (3) "File" means to deposit in the custody of the clerk of the United States Bankruptcy Court for the Southern District of Texas.
 - (4) "Motion" includes applications and all other requests for orders and actions that require court approval; "movant" includes "proponent."
 - (5) Except where specifically designated as "U.S. Trustee," "trustee" means the trustee appointed in a Chapter 7, 11, 12, or 13 case.

Rule 1002. Voluntary petitions.

- (a) Appendix B prescribes the number of copies of the petition to be filed and provides additional requirements for the filing of new cases.
- (b) Petitions shall conform to Official Bankruptcy Form No. 1 and FRBP 1005, with all information completed by petitioner. These requirements include either of the following:
 - (1) The bankruptcy schedules and statements and an alphabetized mailing list of all creditors showing their complete names and addresses, including zip codes. When there is a nondebtor spouse, the list of creditors shall include the complete name and address, including zip code of the nondebtor spouse, or
 - (2) In the case of a voluntary petition for which schedules are not immediately required, include a brief description of the debtor's assets and an alphabetized mailing list of all creditors showing their complete names and addresses, including zip codes. When there is a nondebtor spouse, the list of creditors shall include the complete name and address, including zip code of the nondebtor spouse.
- (c) The mailing list of creditors showing their complete names and addresses, including zip codes, in the court's form described in Appendix C, must be filed within five days of the filing of a voluntary petition. Within 5 days after the filing of all voluntary Chapter 11 and 12 cases and within fifteen days after the entry of an order for relief in an involuntary case, the debtor shall also file a list of its twenty largest unsecured creditors together with their addresses and amounts owed them, excluding insiders and governmental entities.

- (d) The debtor must maintain the current and fully accurate address of the debtor and debtor's counsel on file with the clerk at all times his case pends. Any change of address of debtor or his counsel shall have a conspicuous designation of the case name and number and shall be separately reported to the clerk, the trustee, and the U.S. Trustee immediately.
- (e) Failure to follow these provisions may be a want of prosecution under FRBP 1017.

Rule 1003. Involuntary petitions.

- (a) The petitioning creditors are responsible for service. Petitioning creditors should make every reasonable effort to initiate service of a summons for an involuntary petition within seventy-two (72) hours of their receiving the summons from the clerk. Petitioning creditors must prepare the form of summons for issuance by the clerk.

A certificate of service must be filed or a new summons must be requested within ten days of issuance of the summons.

- (b) Service by publication. If service of the summons cannot be accomplished within thirty (30) days after issuance, the petitioning creditors shall move for service by publication under FRBP 7004© or the court may impose sanctions on them, including dismissal of the case.
- (c) Hearing. If a response opposing relief is timely filed, it is the responsibility of the alleged debtor to move for a hearing date.
- (d) Upon entry of an order for relief, the petitioning creditors shall immediately serve the U.S. Trustee with a copy of the order.

Rule 1007. Supporting documents.

- (a) The period in FRBP 1007© and FRBP 3015 within which to file the Chapter 13 schedules, plan, and statement of affairs shall be strictly enforced. The trustee shall file a deficiency notice in the event of a failure to comply with the limits of FRBP 1007 and FRBP 3015 and of a deficiency in the Chapter 13 schedules, plan, or statement of affairs.
- (b) On Schedules D, E, and F of Official Bankruptcy Form 6, creditors shall be in alphabetical order.
- (c) In individual or joint cases Schedule C of Official Bankruptcy Form 6 shall contain a detailed inventory of the debtor's personal property, with each item valued separately.

- (d) The number of copies of schedules and statement of affairs that must be filed is the same as number of copies of the petition required by Appendix B.
- (e) Individual debtors (or joint ones) in Chapter 7 or Chapter 11 cases shall file, contemporaneously with the schedules of assets and liabilities, the schedules of current income and expenditures (Official Bankruptcy Forms 6I and 6J).

Rule 1009. Amendments of voluntary petitions and their supporting documents.

- (a) If an amendment or supplement is authorized to be filed to add a creditor or to change the status, classification, or amount owed a creditor, the debtor shall, no later than the second business day after the filing:
 - (1) Serve the amendment by first class mail, postage prepaid, on the trustee, U.S. Trustee, and all creditors affected by the amendment, and
 - (2) File a certificate of mailing, and
 - (3) Provide the clerk with mailing cards,
 - (4) File an amended mailing matrix.
- (b) Amendments to schedules must be redlined to identify added or changed information.
- (c) If it appears to the court or trustee that the supporting documents need to be amended to reflect changes or more accurately to reflect the debtor's circumstances, the court or trustee may notify the debtor of the need for amendments, specifying the items, documents, and time for amendment.

Rule 1015. Joint administration, and consolidation.

- (a) Motions for joint administration must specify the activities in the cases that are to be joined and be accompanied by an order in the form in Appendix D.
- (b) A motion for joint administration or consolidation shall be made to the judge with the lowest case number. The motion must list all related cases filed by or on behalf of the debtor or any related person or entity in this district irrespective of whether the other cases are closed.
- (c) A motion for consolidation or joint administration of cases shall be served, at a minimum, on: all creditors, all parties requesting notice, and the U. S. Trustee.

Rule 1017. Dismissals.

- (a) For FRBP 1017, want of prosecution includes, but is not limited to:
 - (1) Failure to file complete schedules on time;
 - (2) Failure of a debtor, not an individual, to file its Chapter 11 case by an attorney at law;
 - (3) Failure to pay filing fees timely;
 - (4) Failure to file timely the prescribed mailing list of creditors in the form in Appendix C;
 - (5) Failure to include with the bankruptcy petition the required list of unsecured creditors;
 - (6) Failure to include with the bankruptcy petition the forms in BLR 1002;
 - (7) Failure timely and diligently to prosecute the filing of a plan, disclosure statement, or other document required by the code, bankruptcy rules, or orders;
 - (8) Failure to appear at a hearing or at an initial or subsequent Section 341 meeting; and
 - (9) Failure by an individual doing business under an assumed name of a putative corporation to designate precisely which individual or corporation is seeking protection; and
 - (10) Failure to pay the U.S. Trustee quarterly fees.
- (b) Motions to dismiss by a party-in-interest for want of prosecution must be served pursuant to BLR 9013.
- (c) The Court may, on its own motion, after notice to the debtor and to all scheduled creditors and equity interest owners, dismiss a case for want of prosecution unless:
 - (1) The debtor timely cures the deficiency or
 - (2) A party requests a hearing within twenty (20) days from service of the notice and shows cause why the case should not be dismissed.

Rule 1019. Conversion of Chapter 11, 12, or 13 Cases to Chapter 7.

For all cases filed before November 26, 1986, debtors-in-possession or trustees in each converted case, shall file a report and account under FRBP 1019(5). For all cases filed on or after November 26, 1986, debtors-in-possession and trustees in each converted case shall prepare the final report and account under FRBP 1019(5) in the form prescribed by the U.S. Trustee and deliver it to the U.S. Trustee for review prior to filing with the court. The court may sanction non-complying debtors, debtor's attorneys, or trustees, which may include dismissal of the case for want of prosecution.

Rule 1020. Expedited Chapter 11 Reorganization.

- (a) Requirements. A debtor commences an expedited case under Chapter 11 of the Bankruptcy Code when on the same day it files:
 - (1) Petition commencing a Chapter 11 case;
 - (2) Schedules and statements of financial affairs and executory contracts;
 - (3) Lists of equity security holders by class;
 - (4) Disclosure statement;
 - (5) Plan of reorganization; and
 - (6) Request for expedited scheduling.
- (b) Clerk's Notice. The clerk will issue a notice of the commencement of an expedited Chapter 11 case.
 - (1) The clerk shall issue it within two business days of the filing.
 - (2) The notice is titled "Notice of Commencement of an Expedited Case under Chapter 11 of the Bankruptcy Code, Fixing Meeting of Creditors and other Dates."
 - (3) The form for notice is Appendix K to the Bankruptcy Local Rules.
- (c) Debtor's Notice.
 - (1) On the first business day after the notice issues, the debtor must mail the notice to all creditors and equity holders.
 - (2) On the first business day after the notice issues, the debtor must serve the plan and disclosure statement by mail on the parties in Bankruptcy Rule 3017.
 - (3) Within the first five business days after the notice issues, it must publish the notice in a newspaper of general circulation reasonably calculated to reach its holders, if the debtor has publicly issued debt or equity.

(Effective January 1, 1997)

Rule 2002. Notices to creditors, equity security holders, and United States.

- (a) A movant shall serve all notices of a hearing that are required to be served, under FRBP 2002 or otherwise, and must file the certificate of service required by BLR 1001(h).

Rule 2004. Examination.

- (a) The purpose of this rule is to avoid a motion and court order for a 2004 examination unless an objection is filed.
- (b) Duty to confer. Before giving notice of a proposed examination under paragraph © below, the movant shall confer with the proposed examinee (through counsel if represented) to arrange for an agreeable date, place, and time for the examination. Failure to confer shall be grounds to quash under paragraph (e) below.
- (c) Notice. Not less than ten (10) days written notice of a proposed examination shall be given to the entity to be examined, its counsel, and to other affected parties pursuant to BLR 9013(a). The notice shall apprise the party of the scope of the examination and categories of documents to be produced.
- (d) No order required. If no response is served, the notice to conduct an examination under this rule is deemed ordered, without requiring the entry of an order. The notice of intent to conduct a Rule 2004 examination need not be filed.
- (e) Motions to quash or for protective order. If the party to be examined has objections, he has the burden to seek relief from the court by a motion. The motion shall comply with BLR 9013. The entity to be examined and other affected parties shall have five (5) business days to respond or object to the proposed examination.
- (f) Sanctions. If anyone has been unreasonable in seeking or resisting discovery under FRBP 2004, the court may impose sanctions. The court may condition the taking of an examination on terms that are just and promote efficient administration.
- (g) Exception of adversary proceedings. This rule does not apply to adversary proceedings and to contested matters.
 - (1) The discovery provisions of Part VII of the Bankruptcy Rules apply in adversary proceedings.
 - (2) FRBP 9014 applies to discovery in contested matters.

Rule 2014. Applications to employ professional persons.

- (a) An application for employment by an attorney for the debtor or a motion for substitution of counsel for the debtor shall have attached to it the statement required by FRBP 2016(b) and Section 329 of the Code.
- (b) Nunc Pro Tunc Application.
 - (1) If an application for approval of the employment of a professional person is made within thirty (30) days of the commencement of that professional's provision of services, it shall be deemed contemporaneous.
 - (2) If an application for the approval of the employment of a professional person is made more than thirty (30) days after that professional person commences provision of services and the application seeks to make the authority retroactive to the commencement of the provision of services, the following information shall be required:
 - (A) An explanation of why the application was not filed earlier;
 - (B) An explanation of why the Order authorizing employment is required nunc pro tunc;
 - (C) An explanation, to the best of the applicant's knowledge, how approval of the application will or will not prejudice any parties-in-interest.

Applications to approve the employment of professional persons nunc pro tunc shall be approved only on notice and opportunity for hearing. All creditors in the case must be served with notice of the application. The notice shall include the twenty day language of BLR 9013(b).

- (c) An ex parte application to employ accountant combined with application to pay compensation shall be allowed without further application or notice and hearing, under the terms and conditions recited hereinafter, when the compensation will not exceed \$250.00 per annum, and employment will not exceed three years.
 - (1) In Chapter 7 cases, the trustee may make an ex parte application to employ combined with application to compensate an accountant for the estate for the purpose of providing tax preparation and accounting services, without further notice or hearing if such application provides that payment shall be for the lump sum of \$250.00 per year for each year's tax returns payable at the completion of a return, and which employment shall be for no longer than three (3) years;
 - (2) The ex parte procedure provided herein shall be available only where no previous application to employ an accountant has been made and no subsequent applications are contemplated by the trustee;
 - (3) The ex parte application to employ accountant combined with application for authority to pay, must meet all requirements of FRBP 2014 and Section 327 of the

Code and agreement to perform such services for a flat rate of \$250.00 per annum including expenses payable when such services are rendered;

- (4) The Trustee must indicate to the court that the administration of the estate shall be completed within three years; and
- (5) Any employment beyond tax preparation and attendant accounting services where compensation in excess of \$250.00 per year or a duration longer than three years is sought, shall require a separate application to employ and separate application for compensation with notice to all creditors and other parties in interest pursuant to FRBP 2016 and LBR 2016.

Rule 2015. Duty to report under Chapters 7, 11, 12, and 13.

For all cases the trustee, debtor-in-possession, or debtor shall conform with the reporting and record-keeping requirements of the Code.

Rule 2016. Compensation and reimbursement.

- (a) Applications for compensation shall cover each element in FRBP 2016 and *In re First Colonial Corp. of America*, 11 CBC 133, 544 F.2d 1291, (5th Cir. 1977), except for Chapter 13 fee applications which must comply instead with BLR 3020(e).
- (b) The application shall identify all prior applications filed by the applicant in the same case by: the date, amount, and disposition, including amounts allowed, retained, and paid.
- (c) Applications shall have attached to them copies of the order appointing the applicant, orders limiting notice of the application, if any, and the applicant's Rule 2016(b) statement.

- (d) In the court-required form, applications shall include a detailed description of:
- (1) Services by date and person for whom compensation is sought;
 - (2) Expenses, except charges for copies, postage, messengers, and similar expenses may be summarized if the basis for the summary is clearly shown, for example, the charge per copy;
 - (3) Each major task, the reason or necessity for performance of that task, the results obtained or anticipated, and the outcome or result had the task not been performed; approximate time devoted by each person for whom compensation is sought for each task; and reason why such expenditure of time was necessary for performance of each major task.
- (e) The application (or a notice under BLR 9013(g)) must be served on the debtor and debtor's counsel and all parties-in-interest listed in FRBP 2002(a) and BLR 9013(a). The application or notice must recite the statement in BLR 9013(b). Notice under BLR 9013(g) at a minimum must specify the amount of fees and expenses requested, the period covered, and the amount of prior fees and expenses authorized.
- (f) Objections to applications for compensation need only be served on the applicant, debtor, and the debtor's counsel, U.S. Trustee and trustee, if any. A hearing on such objection will be noticed by the applicant to all interested parties and other parties requesting notice or other parties as the court directs pursuant to FRBP 2002(a).
- (g) Retainers: In Chapter 11 and Chapter 12 cases, all attorneys and accountants shall deposit retainer funds, whether received from the debtor or an insider of the debtor (see "insider" Section 101(30) of the Bankruptcy Code), in an account that complies with the U.S. Trustee guidelines for a debtor-in-possession. Unless the Court orders otherwise, none of the retainer shall be withdrawn until the attorney or accountant complies with this procedure:
- (1) A motion for the distribution of a retainer shall be filed with the clerk, and a copy shall be served on the United States Trustee, the Trustee, the twenty largest unsecured creditors, committees appointed under the Bankruptcy Code or its authorized agency, and other creditors that demand service of papers. At a minimum, the motion for distribution shall contain a description of services rendered, time spent, hourly rates charged, and the name of the professional or paraprofessional performing the work. If no objection is filed within twenty (20) days of its service, the professional may withdraw funds as described in the proposal as interim allowances without a separate order. Motions for distribution may not be filed more frequently than monthly, without leave of court. Final compensation of counsel is to be determined at a later hearing after a full application for compensation has been filed as required by FRBP 2016.

- (2) If an objection is received from the U.S. Trustee, any creditor, or party-in-interest, the motion will be set for a hearing.
- (h) Final fee applications are required and must include all information required by subparts (a), (b), (c), and (d) of this rule from the date of the filing of the bankruptcy.

Rule 3002. Notice of the filing of proofs.

Creditors filing a proof of claim and interests in Chapters 7, 11, 12, and 13 cases shall serve a copy of it on the trustee and debtor. This requirement is solely to give notice to the debtor of the claims on file; failure to comply is not a ground for disallowance, but it may be a predicate for sanctions.

Rule 3003. Timing of proofs of claims and proofs of interest in Chapter 9 and 11.

In Chapter 9 and Chapter 11 cases, unless further extended by the Court for cause shown, proofs of claims and proofs of interest shall be filed within ninety days after the first date set for the meeting of creditors under Section 341(a) except that a claim of a governmental unit shall be timely filed if it is filed before 180 days after the date of the order for relief.

(Amended January 1, 1999)

Rule 3007. Objections to claims.

- (a) On filing an objection to a claim the objector shall comply with the following requirements:
 - (1) The objector shall obtain from the clerk a claim objection scheduling order (Appendix E), which has a date for a pre-trial hearing, and shall promptly serve the order with a copy of the objection on the claimant and other parties under FRBP 3007.
 - (2) An objection to a claim shall be accompanied by a form of order that states specifically the relief desired, not merely that the objection is granted. Objections to claims must contain a copy of the claim or claims to which objection is made unless the court authorizes otherwise.
 - (3) Hearings may be waived for cause, on application to the court.
 - (4) An objection may be dismissed for failure of the objector to appear at the pre-trial hearing or trial. An objection to a proof of claim may be sustained on the failure of the claimant to appear at the pre-trial hearing or trial, if the objector has overcome the presumption of validity provided for in FRBP 3001(f).
 - (5) If a trustee has been appointed, the objector shall serve the trustee with a copy of the order disposing of the objection, within ten days of its entry.
- (b) A summary proceeding for objections to claims may be conducted at the pretrial hearing when such objection to claim is based upon the following grounds:

- (1) duplicate claims;
 - (2) claims filed without proper documentation to support the claim;
 - (3) claims filed after the bar date (the last date set by the court to file proofs of claim);
 - (4) claims incurred post petition in Chapter 7 cases;
 - (5) claims filed as fully secured, in which the objection proposes to fix the secured and unsecured portions of the claim pursuant to 11 U.S.C. § 506(a) based upon the debtor's valuation of the assets in the schedules, or based upon a value presented in an attached affidavit;
 - (6) claims filed as fully secured, in which the property securing the claim has been abandoned by the trustee pursuant to 11 U.S.C. § 554 and the objection proposes to fix the secured and unsecured portions of the claim based upon the debtor's valuation of the asset in the schedules, or based upon value presented in an attached affidavit;
 - (7) claims which include attorneys fees or interest to which the claimant is not entitled;
 - (8) claims in which no amount is specified.
- (c) The objection to claim which seeks to utilize the summary proceeding must contain an affidavit attached as an exhibit and/or other documentary proof sufficient to overcome the presumption of validity of FRBP 3001(f). A copy of the objection stating the relief sought, along with a copy of the proof of claim and the trustee's affidavit, must be served upon the Debtor, the Debtor's attorney, and the claimant(s). If no opposition to the relief sought is timely filed or no appearance is made at the pretrial hearing, the court may treat the pleading as unopposed and grant the relief. If the claimant timely files and serves an opposition to the relief sought, and appears at pretrial, the hearing may be conducted as a scheduling conference under FRCP 16.

Rule 3017. Notice of disclosure statement in Chapter 11 cases.

After approval of the disclosure statement, the proponent of a Chapter 11 plan shall transmit all notices and documents required by FRBP 3017(d). The proponent shall obtain the notices from the clerk and, without supplement or amendment, transmit them with other required documents to creditors, equity security holders who are entitled to vote on the plan, and the U.S. Trustee.

Rule 3020. Confirmation of Chapter 13 plans.

- (a) At the confirmation hearing of a Chapter 13 plan, objections to claims, motions filed under FRBP 4003(d), motions for valuation of secured claims, reasonableness of attorney's fees, and all objections to the confirmation of a debtor's plan may be considered.
- (b) The debtors are not required to be present at the confirmation hearing if:
 - (1) The Chapter 13 trustee recommends confirmation;
 - (2) No objections to confirmation have been filed or all of those objections have been settled by an agreement filed before the hearing; and
 - (3) No objections to claims or motions for valuation of collateral are unresolved.
- (c) Interim Order of Confirmation. On request of the debtor or trustee, the court may enter an interim confirmation order in Chapter 13 cases, although objections to proofs of claim, motions for valuation, or motions under FRBP 4003(d) remain pending. An interim confirmation order may provide that:
 - (1) Allowed claims, not subject to outstanding motions or objections, be paid under Section 1326 despite the pendency of objections or motions relevant only to other claims; and
 - (2) Claims subject to pending motions or objections may be provided for by either:
 - (A) Escrow of the portion of the plan payments with the trustee necessary to pay that claim if it is allowed; or
 - (B) Requiring the debtor to modify his plan within thirty days to pay that claim if it is allowed.
- (d) The interest or discount rate on deferred payments made through a confirmed Chapter 13 plan must equal two percent (2%) plus the prime rate set in the Money Rates Section of the Wall Street Journal on the date the petition initiating the Chapter 13 case was filed.

- (e) A Chapter 13 Fact Form and Fee Application (Appendix F) must be filed at or before the Section 341 meeting and served on any party requesting notice, the debtor, the trustee, and the U.S. Trustee. Objections to the fee application may be raised at confirmation or in a separate hearing.
- (f) If a Chapter 13 case is dismissed, the trustee must file a final report and accounting within thirty days from the entry of the dismissal.

Rule 4001. Relief from automatic stay; use of cash collateral; obtaining credit; agreements.

(a) Relief from the Stay under Section 362.

- (1) Motions for relief from the stay shall conform with BLR 9013(h). If movant desires to waive the requirement of a hearing within thirty days under Section 362(e), it must be stated in the caption of the pleading.
- (2) The caption shall be:

Motion of [movant's name] for Relief from the Stay (waiver of Section 362(e) Requirement) if applicable.
- (3) Motions for relief from the stay shall never be combined with a request for any other relief except for a request for adequate protection.
- (4) When the motion is filed, the movant shall deliver to the clerk duplicate completed Notice of Preliminary Hearing on Relief from Stay (Appendix G).
- (5) WITHIN TWENTY-FOUR HOURS OF RECEIPT, THE MOVANT SHALL SERVE THE PARTIES-IN-INTEREST WITH THE NOTICE AND A COPY OF THE MOTION (FRBP 7004). THE TWENTY LARGEST UNSECURED CREDITORS AND PARTIES REQUESTING NOTICE MAY BE SERVED WITH A NOTICE DESCRIBED IN BLR 9013(g) INSTEAD OF A COPY OF THE MOTION ITSELF.
- (6) Proof of service (with the names of those served, date, and method of service) shall be filed as prescribed by Appendix H. Failure to timely serve parties-in-interest will be grounds for dismissal of the motion. Service shall comply with BLR 9013(c).
- (7) "Party-in-interest" in this subsection includes the debtor, debtor's attorney, trustee, unsecured creditors' committee, holders of liens on the property about which relief is sought (as scheduled by the debtor or as known to the movant), twenty largest unsecured creditors, and parties requesting notice.
- (8) The thirty-day limit of Section 362(e) begins to run only when a proper motion is filed, notice is issued by the clerk, and it is served by movant under BLR 4001(a)(5).

- (9) A party who objects to, or desires to participate in, the relief or a settlement (including potential objections to adequate protection liens or payments) that might result from the motion, **NO LATER THAN FIVE WORKING DAYS BEFORE THE PRELIMINARY HEARING**, shall:
- (A) File an affidavit that he has conferred unsuccessfully with the movant in a good faith effort to reach an agreement, with dates and times of the conferences, and that court determination is required. A copy must be served on the movant. No request for hearing will be entertained unless preceded or accompanied by a substantive answer, response, motion to intervene, or some combination of them.
 - (B) If opposing the motion, file a written response stating with particularity the grounds of opposition under Fed. R. Civ. P. 8 and a request for a hearing. A copy must be served on the movant.
 - 1. If against property, the response shall identify the property interest of the opponent; and
 - 2. If the respondent is the debtor or the trustee, the response shall state the provable value of the property and the equity realizable by the debtor after deduction of all encumbrances.
 - (C) If the party desires only to participate in a settlement, file and serve on the movant and debtor a written response and a request for a hearing, identifying the relief sought by respondent and his interest in the property.
 - (D) This rule does not prohibit motions to intervene under FRBP 2018.
- (10) Affidavits of conferences with responses in opposition, which are timely filed, serve as requests for a hearing. No hearing will be held solely on request of the movant or on responses untimely filed. Requests for extensions of time to respond must be filed before expiration of the time to respond.
- (11) If no response and request for a hearing under (a)(9) is filed on time and the respondent does not appear at the preliminary hearing, without further notice the court may sign an order embodying a settlement regarding stay relief or providing for adequate protection.

(b) Motions for the use of cash collateral must conform to BLR 9013(h).

(1) The motion shall be served at least on:

- (A) Any entity claiming an interest in the cash collateral;
- (B) Trustee;
- (C) Committees;
- (D) Twenty largest unsecured creditors;
- (E) Parties requesting notice; and
- (F) U.S. Trustee
- (G) As the court directs.

(2) The movant may request a preliminary hearing, a final hearing, or both. If a preliminary hearing is requested, the movant shall specify:

- (A) The necessity for it; and
- (B) The temporary relief sought and why such relief complies with FRBP 4001(b)(2).

(3) The motion to use cash collateral must include conspicuously on the front page of it this statement:

IF YOU WANT A HEARING, YOU MUST REQUEST ONE IN WRITING AND YOU MUST RESPOND TO EACH PARAGRAPH OF THIS MOTION, OBJECTING SPECIFICALLY. YOU MUST FILE YOUR RESPONSE WITH THE CLERK OF THE BANKRUPTCY COURT WITHIN FIFTEEN DAYS FROM THE DATE YOU WERE SERVED AND GIVE A COPY TO THE PERSON WHO SENT YOU THIS NOTICE. OTHERWISE, THE COURT MAY TREAT THIS MOTION AS UNOPPOSED AND GRANT THE RELIEF SOUGHT.

No answer is required before a preliminary hearing.

(c) Obtaining credit. Motions for leave to obtain credit must comply with the rules for motions to use cash collateral. The motion must have a copy of the proposed credit arrangement attached.

- (d) Agreement about relief from the stay, adequate protection, cash collateral, and obtaining credit.
- (1) If a debtor reaches an agreement for relief from the stay, for adequate protection, for use of cash collateral, or for obtaining credit, the interested party or debtor may move for approval of the agreement, in lieu of moving for the relief itself. The motion must have a copy of the agreement attached.
 - (2) The movant or debtor shall serve the motion on the parties required to be served in paragraph (b)(1). The motion, agreement, and certificate of service must be filed together.
 - (3) The motion shall include conspicuously on the front page of it this statement:

IF YOU WANT A HEARING, YOU MUST REQUEST ONE IN WRITING AND YOU MUST RESPOND TO EACH PARAGRAPH OF THIS MOTION, OBJECTING SPECIFICALLY. YOU MUST FILE YOUR RESPONSE WITH THE CLERK OF THE BANKRUPTCY COURT WITHIN FIFTEEN DAYS FROM THE DATE THIS NOTICE WAS MAILED TO YOU AND GIVE A COPY TO THE PERSON WHO SENT YOU THIS NOTICE. OTHERWISE, THE COURT MAY TREAT THIS MOTION AS UNOPPOSED AND GRANT THE RELIEF SOUGHT.
 - (4) If an objection is filed or if the court wants a hearing, the clerk will inform movant's counsel of the hearing date, and the movant shall give notice under paragraph (b)(1) and FRBP 4001(d)(3).
- (e) Responses to discovery about motions for relief from stay, adequate protection, use of cash collateral, and obtaining credit are due in eleven days after service of a discovery request instead of the thirty days under FRBP 7028-7036. The reduction in response time must be conspicuously noted on the discovery request.

Rule 4002. Duties of debtors-in-possession.

- (a) A debtor-in-possession (debtor) and its counsel are responsible for strict compliance with the Bankruptcy Code, Bankruptcy Rules, and Standing Orders. Counsel for the debtor-in-possession is responsible for instructing the debtor about the U.S. Trustee guidelines for debtors-in-possession and insuring compliance with those rules.
- (b) The debtor, its officers, and agents hold and manage the debtor's assets as fiduciaries for the estate; strict compliance with court orders and Bankruptcy Code Sections 363 and 1107 is required. The debtor shall prevent depletion of the assets of the business during the proceedings and shall notify its counsel immediately of a depletion or potential depletion.
- (c) If the debtor becomes aware of facts indicating that the continued operation of its business may not be in the best interest of the creditors or of the estate, it must immediately notify its counsel, who shall immediately notify the court and recommend a solution.

- (d) The debtor shall not pay out of property of the estate any prepetition unsecured obligation except under a confirmed plan or an order.
- (e) The debtor shall not transfer (sell, give, move, or encumber) an asset outside of the ordinary course of business except on an order.
- (f) The debtor shall avoid incurring administrative and priority expenses for which funds may not be generated to pay.
- (g) The debtor shall comply fully with Title 11's tax provisions, with the deposit requirements of the Internal Revenue Code and Regulations, and with all state tax law requirements.
- (h) The debtor must pay all obligations incurred by it in the operation of its business on a current basis.
- (i) The debtor shall not use cash collateral without prior written consent of the secured creditor or an order. Counsel may be held responsible for compliance with this rule. In re Aerosmith Denton Corp., 36 B.R. 116 (Bankr. N.D. Tex. 1983).
- (j) This list of specific duties is not exclusive and does not exclude unenumerated duties or obligations imposed by law. Counsel for the debtor-in-possession is responsible to instruct the debtor of this rule immediately upon the filing of the case. Counsel may be held responsible, as a fiduciary, to the estate and court, for any knowing violations by debtor.

Rule 4003. Exemptions.

- (a) If an amendment or supplement to the list of exemptions is filed after the Section 341(a) meeting of creditors, it shall be served by the party claiming the exemption (as amended or supplemented) on the trustee, creditors, and parties-in-interest. A proof of service shall be filed that shows the date, method, and parties served.
- (b) When the clerk sets the hearing on an objection to an amended or supplemented list of exemptions, the objector shall notify the debtor (or party claiming the exemption) and the debtor's attorney. The prevailing party at that hearing shall serve promptly on the trustee a copy of the order entered.

Rule 4008. Reaffirmation agreements.

- (a) The filing of a reaffirmation agreement shall be deemed a request for a hearing under 11 U.S.C. § 524© and (d). No motion is required to invoke the reaffirmation procedures of 11 U.S.C. § 524.
- (b) Hearings for approval of reaffirmation agreements will be held prior to the later of 60 days after filing of the reaffirmation agreement or the date of discharge.

Rule 5001. Registry of the court and costs.

- (a) The clerk has established a Court Registry Investment System allowing for direct deposit of funds into the U.S. Treasury with the contemporaneous purchase of U.S. Treasury securities which are held in safekeeping at the Federal Reserve Bank. This provides maximum collateral and interest earnings on pooled accounts. All deposits and withdrawals from the registry shall be by order, and withdrawals will include accrued interest only if specified in the order. Funds are available for disbursement once a week.
- (b) Costs.
 - (1) Deposit for costs.
 - (A) The clerk is not required to perform a service that requires a payment unless:
 - 1. The payment is deposited; or
 - 2. A law excuses the payment or deposit in advance; or
 - 3. An order allowing payments in installments has been entered; or
 - 4. Leave to proceed in forma pauperis has been granted. 28 U.S.C. § 1915.
 - (B) The marshal may require a deposit to cover his fees and expenses. 28 U.S.C. § 1921(b)(2).
 - (2) Bill of costs. The parties must maintain their own record of taxable costs. The clerk does not record taxable costs. An application for costs shall be made by filing a bill of costs within ten days of the entry of a final judgment. When attorneys' fees are taxable as costs, an application for them must be made with the application for other costs. Objections to allowance of the bill, the attorneys' fees, or both must be filed within five days of the bill's filing. Fed. R. Civ. P. 54(d); 28 U.S.C. § 1920.

Rule 5005. Filing of papers.

- (a) The clerk's office of the United States Bankruptcy Court will be open for the filing of documents from 9:00 a.m. to 4:30 p.m. on court days. In Houston, there is an after-hours depository with a timed file stamp for filing at any time. Filings of original petitions or applications for temporary restraining orders outside of regular business hours must be arranged.
- (b) An original and one duplicate of all applications and motions must be filed, together with a proposed order.
- (c) The United States Bankruptcy Court for the Southern District of Texas has the same divisions as the District Court: Houston, Galveston, Brownsville, Corpus Christi, Laredo, McAllen, and Victoria.
 - (1) Houston is the official station for the Houston and Galveston Divisions.
 - (2) Corpus Christi is the official station for the Brownsville, Corpus Christi, Laredo, McAllen, and Victoria Divisions.
- (d) Original petitions in a case under Title 11 of the United States Code for venue in any division in the Southern District of Texas may be filed in any division. All documents after the original petition and all adversary proceedings shall be filed only in the official station for the division of venue, Houston or Corpus Christi.
- (e) Depositions, interrogatories, answers to interrogatories, requests for production or inspection, responses to those requests, and other discovery material shall not be filed. When a discovery document is needed in a pretrial proceeding, those portions which are needed shall be an exhibit to a motion or response. When this material is needed at a trial or hearing it may be introduced under the Federal Rules of Evidence, Federal Rules of Civil Procedures, and Bankruptcy Rules.

Rule 5011. Withdrawal of reference.

A motion to withdraw, in whole or part, the reference to the bankruptcy court under 28 U.S.C. § 157 shall be filed with the clerk of the bankruptcy court. Unless the district court orders otherwise, the matter shall first be presented to the bankruptcy judge for recommendation. The timeliness of these motions is determined by the district court; however, motions are conclusively not timely if filed after the bankruptcy court has begun taking testimony in the matter which is the subject of the motion.

Rule 6004. Use, sale, or lease of property.

Notice of the use, sale, or lease of property must conform with the additional requirement that time fixed for notice and the requirements of service shall conform to BLR 9013.

Rule 6005. Auctioneers.

- (a) The U.S. Trustee shall establish a list of qualified auctioneers and set reasonable requirements for approval and inclusion on the list. The list shall be kept in the Office of the United States Trustee and the Clerk. An auctioneer may be removed from the list of approved auctioneers at any time by the United States Trustee. Notice of such removal shall be sent to the auctioneer, the Clerk, and the auctioneer's surety.
 - (1) No auctioneer shall be authorized to conduct a sale or be included on the approved list without having filed a surety bond which has been approved by the United States Trustee in the amount of \$100,000 in favor of the United States of America.
 - (2) If the employment of an auctioneer who is not on the approved list is required, then an application for approval, setting forth the reasons and terms for such employment, shall be submitted to the Court for approval. At least 5 days notice shall be given to the United States Trustee and, if approved, the auctioneer shall file the bond required by the U.S. Trustee of approved auctioneers.
- (b) In a Chapter 7 case where the anticipated gross sales of the auction are less than \$50,000, the trustee may elect to employ an auctioneer from the list approved by the United States Trustee without application to the Court.
 - (1) If gross sales of the auction actually yield less than \$50,000, the trustee is authorized without any application to the Court to pay the auctioneer a commission of 15% of gross sales with no allowance for expenses of the auction, which are to be paid from the auctioneer's commission.
 - (2) The trustee shall file a report of such fees paid to the auctioneer and the report of sale with the Clerk and serve copies on the U.S. Trustee.
- (c) In all other cases where it is necessary to employ an auctioneer, an application for approval of employment shall be submitted to the Court and served upon the U.S. Trustee.
- (d) Immediately after any sale, but in no event more than ten days from the sale, all proceeds shall be delivered by the auctioneer to the trustee or debtor-in-possession along with the report of sale required by FRBP 6004(f)(1) and with a copy filed with the court and a copy sent to the U.S. Trustee. A failure by auctioneer to remit proceeds under this Rule shall be immediately reported to the U.S. Trustee.

- (e) In all cases, except where the provisions of paragraph (b)(1) above are utilized, an application for approval of compensation of the auctioneer must be filed.
 - (1) Auctioneers shall be allowed those expenses allowed by the Court and in addition, commissions on net proceeds of sale not to exceed 10% of the first \$50,000; 7% of the next \$50,000; 5% of the next \$50,000; 3% of the next \$100,000; and 1% on all amounts above \$250,000.
 - (2) Upon proper application and for cause, the provisions of paragraph (e)(1) may be modified.
- (f) All auctions shall be noticed in accordance with FRBP 2002. In addition, there must be at least one notice of all auctions in a local newspaper of general circulation. The trustee or the debtor-in-possession is responsible for the proper notice of the auction and shall not allow an auction to proceed unless proper notice is given to all parties-in-interest, including the U.S. Trustee.
- (g) All payments to auctioneers are subject to an order of disgorgement for good cause upon motion of the Court, the trustee, the debtor-in-possession, the U.S. Trustee, or parties-in-interest.

Rule 6007. Abandonment of property under Chapter 7.

- (a) With the exception of passenger cars and light trucks all notices of the abandonment of property of the estate must conform to the content and service requirements of 11 U.S.C. § 554(a), FRBP 6007, and BLR 9013.
- (b) A trustee in a Chapter 7 case may, at the first meeting of creditors, announce an intention to abandon passenger cars and light trucks and disclose that on the trustee's report of the meeting. In the absence of a written objection to a proposed abandonment filed with the clerk and served upon the trustee, debtor, debtor's attorney, and all known lien holders of the property no later than 15 days after the announcement of abandonment, the abandonment shall be effective without further order. An objection filed and served properly constitutes a request for hearing on the proposed abandonment. A summary of this rule shall be included in the notice of the first meeting of creditors.

Rule 7003. Cover sheet.

No adversary proceeding may be filed without a completed adversary proceeding cover sheet. (Official Bankruptcy Form 16C).

Rule 7004. Summons.

The clerk shall issue a summons on the filing of a complaint in an adversary proceeding on the summons form completed by the party, who will also furnish copies for service. The clerk will provide official process forms to counsel on request. Only the official summons form from the clerk properly completed will be issued.

Rule 7007. Motions in adversary proceedings.

- (a) **Motions.** Motions in adversary proceedings shall conform with BLR 9013(h) and (I) and these rules; they shall contain citations of authority or shall be accompanied by a brief. The rules, code sections, and reasons for the relief requested shall be specified. The parties need only serve the parties to the adversary proceeding. Movant shall comply with DLR 6.
- (b) **Submission Date.** Motions will be submitted to the judge on the twentieth day after service, unless the motion is accompanied by a motion for emergency consideration.
- (c) **Responses.** Unless otherwise ordered, responses to motions shall be filed by submission day. Failure of counsel to respond on time may result in the relief being granted.
- (d) **Submission.** Motions may be determined without oral hearing. Requests for oral presentation may be made for cause shown in writing with the motion or response.
- (e) **Judicial Discretion.** The court may, at any time or place, entertain and decide a motion, shorten or extend the period for its submission, or permit or require the submission of additional argument, authorities, or supporting material. If the Judge, on deciding the motion, determines that the motion or opposition is completely wanting of support in fact or law or that the motion or opposition is vexatious, fraudulent, or frivolous, the judge may award the prevailing party its costs, including reasonable attorneys' fees, or make such order as justice may require.
- (f) **Unopposed Motions.** If a motion is unopposed by all affected parties, counsel may simply state that conspicuously in the caption of the motion.

Rule 7016. Pretrial orders.

- (a) **Scheduling orders.** When an adversary proceeding is filed, a scheduling order shall be entered. The plaintiff shall serve the scheduling order on the defendants with the summons.
- (b) **Pretrial statement.** Unless otherwise ordered, a joint pretrial statement must be filed in matters requiring trial. A form of pretrial statement is illustrated in Appendix J.

Rule 7041. Settlement.

- (a) Approval of Settlements. When an adversary proceeding has been settled in whole or part, an application to compromise shall be filed in the main bankruptcy case; its substance shall comply with Protective Committee for Independent Stockholders of TMT Trailer Ferry, Inc. v. Anderson, 390 U.S. 414 (1968). The caption of applications to compromise must identify specifically but briefly the adversary proceeding in which the settlement is proposed; however, the adversary proceeding number shall not be included in the style of the application.
- (b) Notice. The applicant shall comply with BLR 9013, unless the settlement is of an action arising under Section 523(a) for which no notice is required, in which case applicant shall specify that the settlement is an action under Section 523(a) and that no further notice is required.
- (c) Waiver of notice. The parties may move for a waiver of notice for cause.
- (d) Order and judgment. A proposed order approving a settlement must be filed with the application for approval; it will be entered in the main bankruptcy case, and a separate judgment must be filed for entry in the adversary proceeding unless otherwise approved by the court.
 - (1) The proponents of the compromise must file an order that approves the settlement with the correct style for the main bankruptcy case.
 - (2) A separate judgment (with the correct, full style) must be filed in the adversary proceeding no later than seven days after entry of the approval order in the main bankruptcy case.

Rule 7042. Consolidation of adversary proceedings.

Motions to consolidate adversary proceedings for trial or otherwise are determined by the judge to whom the case having the lower number is assigned and should be directed to that judge.

Rule 7055. Motions for default judgment.

When a defendant has been in default for more than ninety days without the plaintiff's having moved for a default judgment, the action may be summarily dismissed for want of prosecution.

Rule 8007. Record designation on appeal.

The bankruptcy clerk will retain the entire record. The parties must furnish the clerk with copies of the papers included in their designation of the record on appeal; these copies will be compiled and transmitted as the record to the district court under FRBP 8007(b).

Rule 9001. General definitions.

Under FRBP 9001(5), officers, members of the board of directors, controlling stockholders, and other persons in control shall be individually responsible for performance of acts required of the debtor.

Rule 9003. Motions ex parte.

At the discretion of the judge, the following may be heard ex parte: Applications for approval of employment of professional persons under FRBP 2014; motions for enlargement or reduction of time under FRBP 9006; and motions for shortening or limiting notice under FRBP 2002.

Applications for employment of professionals shall be served on the U.S. Trustee. The U.S. Trustee is permitted ten (10) days to object in writing to the proposed application unless this period is shortened by the court.

Rule 9004. General requirements of form.

- (a) Filing. When a paper is offered for filing, the original and a copy shall be delivered to the clerk, not to the individual judge.
- (b) Each paper offered for filing shall:
 - (1) Bear on its face the caption required by FRBP 1005 or FRBP 7010, and a statement of its character, such as "Motion of John Doe for Relief from the Stay";
 - (2) Be typewritten or printed legibly in ink without obtrusive interlineation or excessive abbreviation;
 - (3) Be bound at the top only, punched at the top with two holes, and not enclosed in a cover; and
 - (4) Indicate under the case number in the caption the chapter designation, (Chapter 7, Chapter 11, Chapter 12, or Chapter 13).
- (c) No filed instrument shall be removed from the clerk's custody without an order.
- (d) If a paper does not conform to the DLRs and BLRs or if it is otherwise in an objectional form, it may be struck on motion or sua sponte.
- (e) Exhibits at trial.
 - (1) Exhibits that are not easily stored in a file folder (such as posters, parts, or models) must be withdrawn within two business days of the completion of the trial and reduced reproductions or photographs substituted.
 - (2) If there is no appeal, exhibits will be removed by the offering party within thirty days after disposition of the matter. When there is an appeal, exhibits returned by the

district court will be removed by the offering party within thirty days after written notice from the clerk. Exhibits not timely removed will be disposed of by the clerk and the expenses incurred will be taxed against the offering party.

- (3) Parties shall bring an original and two copies of all exhibits to be offered at trial and a completed exhibit list (Appendix J) in addition to the copies previously exchanged by counsel.

Rule 9006. Requests for extension of time.

Requests for an extension of time must be for a specific calendar date; the movant shall at least comply within the time period requested. Inaction by the court on the motion does not extend the time for compliance beyond the period of the request.

Rule 9013. Motion requirements.

- (a) Service of motions. Except for motions under BLR 4001 and in proceedings under BLR 7007, motions required to be served under FRBP 9013 and FRBP 9014 shall be served by the movant on:
 - (1) The entity against whom relief is sought;
 - (2) The entity's attorney;
 - (3) Committees appointed under the Code or their agent;
 - (4) Twenty largest unsecured creditors;
 - (5) Parties claiming an interest in the affected property;
 - (6) Entities requesting notice under FRBP 2002(g);
 - (7) Any trustee appointed in the case;
 - (8) The U. S. Trustee; and
 - (9) Entities on whom the court has ordered notice.
- (b) Except for matters governed by BLR 4001 and pleadings that do not require notice and hearing, the movant shall include conspicuously on the front page of the pleading this statement:

IF YOU WANT A HEARING, YOU MUST REQUEST ONE IN WRITING, AND YOU MUST RESPOND SPECIFICALLY TO EACH PARAGRAPH OF THIS PLEADING. YOU MUST FILE YOUR RESPONSE WITH THE CLERK OF THE BANKRUPTCY COURT WITHIN TWENTY DAYS FROM THE DATE YOU WERE SERVED AND GIVE A COPY TO THE PERSON WHO SENT YOU THE NOTICE; OTHERWISE, THE COURT MAY TREAT THE PLEADING AS UNOPPOSED AND GRANT THE RELIEF.

IF A PARTY REQUESTS EMERGENCY CONSIDERATION, THE COURT MAY ACT EXPEDITIOUSLY ON THE MATTER. IF THE COURT ALLOWS A SHORTER RESPONSE TIME THAN TWENTY DAYS, YOU MUST RESPOND WITHIN THAT TIME. IF THE COURT SETS AN EMERGENCY HEARING BEFORE THE RESPONSE TIME WILL EXPIRE, ONLY ATTENDANCE AT THE HEARING IS NECESSARY TO PRESERVE YOUR RIGHTS. IF AN EMERGENCY HEARING IS NOT SET, YOU MUST RESPOND BEFORE THE RESPONSE TIME EXPIRES.

If a hearing has been set on the matter by the Court, movant shall include conspicuously on the front page of the pleading:

HEARING HAS BEEN SET ON THIS MOTION FOR _____.

- (c) Certificate of service. Pleadings shall contain a certificate of service in compliance with BLR 1001(h) and a list specifically setting forth the name, address, and status of each party served, and identifying each party under the categories enumerated in (a)(1) - (a)(9). The certificate shall state that all parties entitled to notice have been served.
- (d) If there is an order limiting the parties to whom notice must be given, or if there is an order limiting the time for parties to respond, the certificate of service shall state the entry date and enough substance of the order so that the existence of and compliance with it may be determined from the certificate of service.
- (e) Mailing labels. When the rules allow notice to be given to the other parties-in-interest by a person other than the clerk, on three days notice, the clerk will furnish mailing labels reproduced from the master mailing list kept by the clerk. These labels may be used to give the notices required by FRBP 2002.
- (f) Manner of service. Unless otherwise authorized, all service other than by the clerk shall be by first class mail, postage prepaid.
- (g) Contents of notice. If under the rules a party may act or obtain relief upon notice rather than by motion, the notice shall state with particularity what relief is sought by the movant. The notice shall state in general the substance of the relief sought; it may not simply refer to a pleading. A copy of the pleading may be served in lieu of a notice.

- (h) Contents of motion. Motions must state with particularity the relief sought, contain the specific code section, rule, or case authority on which the relief is predicated, and bear in the caption a designation of the paper's character under FRBP 9004(b). A memorandum of law may be included or may accompany the motion.
- (i) Contents of orders. A separate proposed order granting the relief shall accompany the motion. If requested by court, the proposed order shall be accompanied by separate findings of fact and conclusions of law if a hearing has been held at which evidence was heard supporting the findings.
- (j) Contents of responses. A party-in-interest who wishes to contest the relief requested in a motion shall oppose it by filing a response in the form in FRBP 7008. The respondent shall confer with the movant before filing the response to resolve the dispute. Responses shall include either a certificate stating that:
 - (1) A conference was held, a good faith effort to resolve the dispute was made without an agreement being reached, and the matter requires court determination, or
 - (2) It was not possible for the required conference to be held.
- (k) Orders. By agreement or after a contested hearing, a proposed order must be filed that:
 - (1) States with particularity the relief granted or denied without recitations of proceedings or pleadings; and
 - (2) Lists the names and addresses of everyone entitled to notice of the entry of the order.
 - (3) Be placed under cover of an Order Submission Form that is obtainable from the clerk. Counsel submitting the order shall complete the form before it is submitted.
- (l) Motions. Motions will be submitted on a twenty-day submission time following filing.
- (m) Emergency hearings. Movants or respondents may request an emergency hearing. A separate motion for emergency hearing shall be filed with the substantive motion or response and be accompanied by an order for an emergency hearing, containing places to designate the time, place, and courtroom. The request shall state with specificity why an emergency exists and be accompanied by an affidavit by the party or its attorney, certifying the nature of the emergency. Requests for emergency hearings must comply with paragraph (h).

Rule 9027. Removal.

- (a) A party removing a civil action to the bankruptcy court, in addition to complying with BLR 7003, shall list names and addresses of all of the parties, designate on which service of process has been accomplished, and list the name, address, and telephone number of the counsel for every party. If service of process is necessary, the removing party shall comply with BLR 7004.
- (b) Notice of removal must be accompanied by copies of all papers that have been filed in the court from which the removal is sought.

JANUARY 1, 1993

CHIEF JUDGE NORMAN W. BLACK
UNITED STATES DISTRICT COURT

CHIEF JUDGE R. F. WHELESS, JR.
UNITED STATES BANKRUPTCY COURT

INDEX OF APPENDICES

APPENDIX A	COURTROOM ETIQUETTE
APPENDIX B	FORMAT FOR FILING NEW CASES
APPENDIX C	INSTRUCTIONS FOR PREPARATION OF MAILING CARDS FOR BANKRUPTCY CASES
APPENDIX D	ORDER FOR JOINT ADMINISTRATION
APPENDIX E	SCHEDULING ORDER: CLAIM OBJECTION
APPENDIX F	CHAPTER 13 FACT FORM AND FEE APPLICATION
APPENDIX G	NOTICE OF HEARING ON RELIEF FROM STAY
APPENDIX H	PROOF OF SERVICE
APPENDIX I	STANDARD JOINT PRETRIAL STATEMENT
APPENDIX J	EXHIBIT LIST
APPENDIX K	NOTICE OF AN EXPEDITED CASE UNDER CHAPTER 11

COURTROOM ETIQUETTE

People who appear in court must observe these and other conventions of courteous, orderly behavior.

- A. Be punctual.
- B. Remain in attendance until excused. All persons sitting before the bar shall remain there during each session and return after recess.
- C. Dress with dignity.
- D. Address others only by their titles and surnames, including lawyers, witnesses, and court personnel.
- E. Stand when the court speaks to you; stand when you speak to the court, unless otherwise excused or directed. Speak only to the court, except for questioning witnesses and, in opening and closing.
- F. Avoid approaching the bench. Counsel should anticipate the necessity for rulings and discuss them before court is in session. When a bench conference is unavoidable, get permission first.
- G. Hand to the clerk, not the judge or reporter, all things for examination by the judge.
- H. Stand when the judge enters or leaves the courtroom.
- I. Contact with the law clerks is ex parte contact with the court. Contact must be through the case manager.
- J. Assist the summoning of witnesses from outside the courtroom. Furnish the clerk and Electronic Court Recorder (ERO) with a list of witnesses showing the order they are likely to be called.
- K. Question witnesses while seated at counsel table or standing at the lectern. When it is necessary to question a witness about an exhibit, ask permission to approach the witness.
- L. Conduct no experiment or demonstration without permission.

APPENDIX A

- M. Do not participate in a trial as an attorney if you expect you may be called as a material witness.
- N. Avoid disparaging remarks and acrimony toward counsel, and discourage ill-will between the litigants. Counsel must abstain from unnecessary references to opposing counsel, especially peculiarities.
- O. Make no side-bar remark.
- P. Counsel are responsible for advising their clients, witnesses, and associate counsel about proper courtroom behavior.
- Q. Request the use of easels, light boxes, and other equipment well in advance so that they may be set up while court is not in session.

SOUTHERN DISTRICT OF TEXAS

FORMAT FOR FILING NEW CASES

This is the preferred format for new cases. Each of the categories should be kept separately and stapled. Your cooperation is requested to help us speed the filing process.

1. A check payable to "Clerk, U.S. Bankruptcy Court."
(\$175.00 for Chapter 7; \$160.00 for Chapter 13; \$800.00 for Chapter 11; \$200.00 for Chapter 12; and \$1,000.00 for Chapter 11 Railroad).
2. Original of "Notice to Individual Consumer Debtor."
3. Original and three (3) copies of the petition and its attachments, including at least, a list of creditors with their addresses and the attorney's disclosure of compensation (Chapters 7, 12, and 13).
4. Original and four (4) copies of the petition and its attachments, including at least, a brief statement of assets, a list of creditors with their addresses, a list of the twenty largest unsecured creditors with their addresses and amounts owed (in descending order by amount owed) excluding insiders and government, and the attorney's disclosure of compensation (Chapter 11 and Chapter 11 Railroad).
5. Original and one (1) copy of motions, applications, and other documents being filed with the new case.
6. Original and one (1) copy of proposed orders being filed with the new case.
7. One (1) additional copy of each of the preceding documents to be filed stamped for your office.

Thank you for helping us expedite your new case filing.

APPENDIX B
UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS

FORMAT RULES FOR LISTS OF CREDITORS: DISK or MATRIX
[If you have PC capability you must file a disk].

After June 1, 1993, creditor lists must be filed on disks or matrices. To ensure that the lists you file can be read by the optical scanner and interpreted by the software, please follow these rules. Your help is essential both for current efficient and for future improvements.

DISK AND MATRIX:

1. Addresses must be in a format of six lines for every entry with a maximum of 40 characters per line. Use lower and upper case letters. do not use all capitals. Note that blank lines have been added to make each address conform to the six-line format.

Examples:

Line 1	John Q. Public
Line 2	Attorney at Law
Line 3	123 Main Street
Line 4	Anywhere, TX 12345-0123
Line 5	
<u>Line 6</u>	
Line 1	Joanna R. Doe
Line 2	123 Avenue A
Line 3	Anywhere, TX 12345-0123
Line 4	
Line 5	
<u>Line 6</u>	

2. Addresses must be in this order:

Person or Company Name
Optional Description (e.g. Attorney, Division)
Optional Description (e.g. Account Number, Attention)
Address (street *or* post office box, *not* both)
Suite *or* Apartment Number
City, State, Zip (Use the state's two-letter abbreviation, without a period.)

3. The company or individual's name must be limited to one line only.
4. Descriptions must be limited to two lines only. Keep it simple. Omit non-essential and imprecise descriptions. Insert blank lines to provide a six-line entry.
5. Zip codes must be on the last line with the city and state. When possible, use all nine-digits with a hyphen inserted. Use capital letters for state abbreviations, with no periods in or after the letters (i.e., TX).

APPENDIX C

6. List the debtor first, followed by the debtor's attorney, then all creditors listed on Schedules D, E, and F.

7. The court's "receipt of Creditors List" must accompany each disk or matrix.
8. Never resubmit a name on a supplemental disk or matrix that was submitted on the original unless the name or address is being corrected. Do not relist all creditors that appeared on the original in addition to the changes you are making through filing the supplemental list.
9. A separate disk or matrix must be filed to add, correct, or delete creditors at the same time. Indicate on the reverse of the matrix or disk whether it *added, modified, or deleted* creditors.

DISKS:

1. Creditor lists filed on disks must use ASCII-character formatted DOS text.
2. Disks may be 5-1/4" or 3-1/2".
3. Only one case may be filed on each disk.
4. Disks must be labeled with the case number and debtor's name. This may be done at the time of filing, or in advance when submitted the list within 5 days of the petition.

MATRICES:

1. Matrices must be on 8-1/2 x 11" good quality paper, with a single column on each page along the one-inch left-hand margin. No misaligned columns please.
2. Use one of these typefaces: `Courier 10 Pitch` (preferred) or `Courier 12 Pitch`.
3. Laser printed text is preferred. Do not include other information, like letterhead, case number, page or line numbers, or stray marks.
4. Please do not staple.

NOTE:

Mail that is returned as undeliverable will be given to the attorney for the debtor who will have the duty to effect notice.

IN RE:	§	
	§	
	§	
DEBTOR,	§	BANKRUPTCY NUMBER [lower number]
	§	
AND	§	
	§	
DEBTOR,	§	BANKRUPTCY NUMBER [higher number]

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

IN RE:	§	
	§	
DEBTOR:	§	CASE NO.
	§	
CLAIMANT:	§	
	§	
FILED:	§	

SCHEDULING ORDER: CLAIM OBJECTION

1. This Order shall be served by the objector together with the objection, in compliance with BLR 3007.
2. A claimant must file and serve a written answer to the claim objection within twenty (20) days after service.
3. The hearing on this claim objection will be held at _____ o'clock _____ .M. on _____, 515 Rusk Avenue, _____ Floor, Courtroom #____, Houston, Texas.

Unless otherwise ordered by the Court, where no answer is filed to the objection to claim, the objector may seek a default to sustain the objection at the noticed hearing without further need to file a motion for default.

Counsel who have major responsibility for the hearing must attend the hearing.

IF YOU BELIEVE THE AMOUNT YOU CAN CLAIM SHOULD BE PAID TO YOU, YOU MUST APPEAR AT THIS HEARING. IF YOU DO NOT, THE COURT MAY DENY YOUR CLAIM AND YOU MAY BE PAID NOTHING. CLAIMANTS ARE ADVISED TO REVIEW BLR 3007 IN FULL SO THAT THEY MAY UNDERSTAND THE PROCEDURE FOR CLAIMS OBJECTIONS AND THE POSSIBILITY OF DEFAULT IF THEY FAIL TO ATTEND THE ABOVE SCHEDULED HEARING CONFERENCE.

BASELESS OBJECTIONS TO HARASS SMALL OR OUT-OF-TOWN CLAIMANTS
WILL BE DEALT WITH UNDER BANKRUPTCY RULE 9011.

4. Failure to comply with the requirements of this Order may result in sanctions being imposed on counsel and the parties, including dismissal.

Dated: _____

UNITED STATES BANKRUPTCY JUDGE

APPENDIX E

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS

IN RE:

CASE NO. _____

Debtor. _____

CHAPTER 13 FACT FORM AND FEE APPLICATION

SECURED DEBTS	Total Number Claims	Total	Monthly Payments
A. To be Paid by Payments to Trustee: _____		\$ _____	_____
B. To be Paid Directly to Creditor: _____		\$ _____	_____
C. Secured Assets: Car _____ Home _____ Other _____			(Check)

PRIORITY DEBTS

A. Total Number of Claims: _____ Total Dollar Amount: \$ _____ Monthly Payments: \$ _____

B. Amounts to be Paid to Certain Priority Creditors:

Attorney: \$ _____ Taxes: \$ _____ Other: \$ _____

UNSECURED DEBTS

A. Total Number of Claims: _____ Total Dollar Amount: \$ _____

B. Percentage to be Paid to Unsecured Creditors under Plan: _____ %

PLAN

Monthly Payments under Plan: \$ _____ Term of Plan: _____ Months

ATTORNEYS FEES

Total Fees and Costs Received to Date (all monies): \$ _____

Total Fees and Costs Requested: Fees: \$ _____ Costs: \$ _____

Itemize Costs: _____

MISCELLANEOUS

What is your hourly rate for attorney time? \$ _____ Paralegal Time? \$ _____

Does your bill include any secretarial expense? \$ _____ If Yes, How Much? \$ _____

How many hours did you bill for travel time? _____ What Rate? \$ _____

Does this fee application cover *all* services to be rendered in this case? ☐ Yes ☐ No

If future billings are contemplated, explain the nature of the services and estimate the fees to be charged:

\$ _____ for _____

FEES BY PROJECT

Preparation of Schedules, Plans and Modifications/Amendments: \$ _____

§ 341 Meeting: \$ _____

Plan Confirmation Hearing: \$ _____

☐ Relief from Stay ☐ Turnover (specify one) \$ _____

Other: \$ _____

Are there any particulars you believe the Court should consider in setting fees?

Signature: _____ Date: _____

Address: _____

Firm Name: _____ Telephone: _____

This form and supplemental applications must be served on the Chapter 13 Trustee, parties entitled to receive notice, and the debtor before hearing on confirmation and filed with the court by the confirmation hearing.

APPENDIX F

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS

_____	§	
Debtor.	§	Bankruptcy Case Number
_____	§	
Movant.	§	_____
	§	
	§	
versus	§	
	§	
_____	§	
Respondent.	§	

NOTICE OF HEARING ON RELIEF FROM STAY

A motion has been filed seeking relief from the automatic stay of 11 U.S.C. § 362, and the court has set the preliminary hearing on it for:

Date and Time: _____, 19____, at _____ m.

Courtroom: _____ on Floor:_____.

Address: United States Court House, 515 Rusk Avenue, Houston, Texas 77002.

If you object to the lifting of the stay, no later than five working days before the hearing you must:

1. File with the Clerk an affidavit stating that:
 - a. You have conferred with the movant in a good faith effort to reach an agreement, with the dates and times of the conferences.
 - b. The efforts were unsuccessful, and
 - c. A hearing is required.
2. File with the Clerk your written answer opposing the motion; include:
 - a. The particular grounds for the opposition under Federal Rules 8(b) and 11;
 - b. The identity of your interest in the property;
 - c. The provable value of the property and the equity after deduction of all encumbrances; and
 - d. Attach copies of your affidavit of conferences and the motion to your answer.
3. Serve a copy of your written answer on the movant at:

Your written answer will be your request for hearing. No hearing will be held on the request of the movant or on an answer received within five days before the hearing.

MICHAEL N. MILBY, Clerk

Date Issued: _____

By: _____
Deputy Clerk

To the Movant: This notice with a copy of your motion must be served within 24 hours of receipt from the Clerk. A proof of service form is attached.

APPENDIX G

Federal Rule of Civil Procedure 8(b)

HOUSTON DIVISION

IN RE:

DEBTOR.

PLAINTIFF,

versus

DEFENDANT.

§
§
§
§
§
§
§
§
§
§

CASE NO.

ADVERSARY NO.

STANDARD JOINT PRETRIAL STATEMENT

Under Local Bankruptcy Rule 7016, and Rule 6 of the Local Rules of the District Court, counsel shall file a joint pretrial statement setting forth these matters. Plaintiff is responsible for filing the jointly prepared Pretrial Statement. All counsel shall cooperate in its preparation.

1. *Statement of the Case.*
Concise statement of the case for the convenience of the court.
2. *Jurisdiction.*
Indicate any jurisdictional questions; state if core or noncore. If noncore, the parties must all state whether they consent to entry of final orders or judgment by the bankruptcy judge.
3. *Motions.*
List all pending motions.
4. *Contentions of Parties.*
State concisely in separate paragraphs what each party claims.
5. *Admissions of Fact.*
List all facts which have been stipulated or otherwise require no proof.
6. *Contested Issues of Fact.*
List all facts in controversy that are necessary to the final disposition of this case.
7. *Agreed Applicable Propositions of Law.*
List the legal propositions not in dispute.
8. *Contested Issue Of Law.*
State briefly the issues of law in dispute. Memoranda of authorities on each shall be filed by litigants with the joint pretrial order.
9. *Exhibits.*
An Exhibit List numbering and briefly describing all exhibits to be offered in evidence or referred to in trial shall be attached to the joint pretrial statement. To the greatest extent possible, exhibits at trial should be bound with the exhibit list as in inside cover sheet. All exhibits must be marked by the parties for identification before trial, designating such exhibits by the name of the offering party, followed by an exhibit number. (For example, "Plaintiff's Exhibit 1"). **ALL EXHIBITS WILL BE ADMITTED INTO EVIDENCE BY AGREEMENT OF COUNSEL AS THE FIRST ITEM OF BUSINESS AT TRIAL.** Counsel for all parties are ordered to confer at their earliest convenience for the purpose of arriving at all possible stipulations and for the exchange of documents which will be offered in evidence at the trial. Documents or physical evidence not listed in the joint pretrial statement or produced to opposing counsel before the pretrial conference date will be inadmissible for any purpose during trial, except upon motion and leave. This shall not apply to rebuttal exhibits which cannot be anticipated. Objections to admissibility will be taken up at the pretrial conference. Supporting legal authorities and copies of exhibits in dispute shall be submitted to the court at least three business days before the pretrial conference.

APPENDIX I

10. *Witnesses.*
Each party should list the names and addresses of all witnesses expected to be called during trial with a brief statement of the facts expected to be proved by each witness. Counsel are expected to stipulate to the qualifications of experts. Inability to stipulate must be in the pretrial statement and specifically brought to the court's attention for resolution at the pretrial conference.

The proponent of a witness must state the amount of courtroom time needed for direct examination. The opponent must state the amount of courtroom time needed for cross examination of that witness.

Failure to provide any of this information shall result in counsel's inability to call or examine that witness for testimony at trial. This does not apply to rebuttal or impeachment witnesses.

11. *Settlement.*
Report prospects of settlement. Counsel are expected to provide the court with an analysis of those areas in dispute continuing to exist.
12. *Estimated Trial Time.*
A statement of the estimated time to try the proceedings, and a statement as to availability of witnesses, including out of state witnesses.
13. *Attachments.*
Include these required attachments for each party:
 - a. Proposed findings of fact and conclusions of law, with supporting authorities in a memorandum of law;
 - b. Exhibit Lists (2 copies);
 - c. Objections to Exhibits (2 copies); and
 - d. Witness Lists (2 copies).

Failure to obey this Order will result in sanctions being imposed under Rule 16(b), Fed.R.Civ.P.

Counsel for Plaintiff

Counsel for Defendant

Counsel for Plaintiff

Counsel for Defendant

-2-

UNITED STATES BANKRUPTCY COURT SOUTHERN DISTRICT OF TEXAS	
MAIN NO.	DEBTOR
ADVERSARY NO.	
	versus

[illegible]

NOTE: This Exhibit List is to prepared in advance of the date of trial by counsel to parties and furnished to the Court in duplicate and served on opposing counsel

APPENDIX J

UNITED STATES BANKRUPTCY COURT
Southern District of Texas

Notice of an Expedited Case
Under Chapter 11 of the Bankruptcy Code,
Fixing Meeting of Creditors and Other Dates
(☐Corporation ☐Partnership Case)

Case Number:

Date Filed (*or Converted*):

IN RE (*Name of Debtor*):

Debtor's Address:

Debtor's Attorney:
Address:

Trustee:
Address:

Telephone:

Telephone:

MEETING OF CREDITORS:

Date:

Time:

Location:

Telephone:

CLAIMS DEADLINE: The last time to file a proof of claim is:

COMMENCEMENT OF CASE. A petition for reorganization under Chapter 11 of the Bankruptcy Code has been filed about the debtor, and an order for relief has been entered. All documents filed with the court, including lists of the debtor's assets and debts, are available for inspection at the clerk's office, but you will not get notice as they are filed.

THINGS CREDITORS MAY NOT DO. A creditor is anyone whom the debtor owes money or property. Under the Code, the debtor is protected against many acts by creditors. Common examples of things creditors may not do are: contacting the debtor to demand payment, acting against the debtor to collect money or to take the debtor's property, and foreclosing or repossessing the debtor's property.

If a creditor takes unauthorized actions against a debtor, the court may punish that creditor. Before taking action against the debtor or the debtor's property, a creditor should read Section 362 of the Code and seek legal advice. If the debtor is a partnership, remedies otherwise available against general partners may not be affected by the partnership's case.

The court's staff may NOT give legal advice.

MEETING OF CREDITORS. At the meeting of creditors on the date and at the place in this notice, the debtor's representative must appear to be examined under oath. Creditors are welcome to attend the meeting, but they are not required to attend. At the meeting, the creditors may question the debtor and transact other business. The meeting may be stopped and rescheduled by notice only at the meeting, without further written notice. See Bankruptcy Rule 9001(5).

APPENDIX K

OBJECTIONS TO EXPEDITED SCHEDULING. The debtor in this case has already filed its plan of reorganization and disclosure statement and has requested expedited scheduling of hearings. Parties in interest may file an objection to Expedited Scheduling and Fixing of Dates (specifying the nature of the objection in detail) with the Clerk of the Bankruptcy Court within ten (10) days from the date the Notice was served and serve a copy of the objection on the attorney for the debtor and United States Trustee. In the event an Objection is filed, a hearing on the Objection to Expedited Scheduling will be held:

Date:

Time:

Location:

DISCLOSURE STATEMENT HEARING. The debtor in this case has already filed its plan of reorganization and disclosure statement. A hearing will be held:

Date:

Time:

Location:

before U. S. Bankruptcy Judge _____, to determine whether to approve the disclosure statement for solicitation of votes on it, conditioned on objections to the disclosure statement and the plan at the confirmation hearing.

CONFIRMATION HEARING. If the debtor's disclosure statement is conditionally approved, a hearing to approve it finally and to consider confirming the plan of reorganization will be held:

Date:

Time:

Location:

Objections to the disclosure statement and the plan must be filed with the court and delivered to the (a) debtor, (b) debtor's counsel, (c) official committees appointed under the Code, (d) United States Trustee, and (e) other parties in interest who request notice five days before the confirmation hearing. Until the disclosure statement is finally approved, a plan may not be confirmed. The Court may change the date of the confirmation hearing. A creditor or interest holder is entitled to vote on the debtor's plan of reorganization if its claim has been scheduled by the debtor (but not listed as disputed, contingent, or unliquidated) or if it has filed a proof of claim. Ballots must be received by the Debtor's attorney at the address on page one no later than five days before the confirmation hearing.

PROOF OF CLAIM. Schedules of creditors have been filed under Rule 1007. Unless the debtor lists it as disputed, contingent, or unliquidated, a creditor with a scheduled claim may file a proof of claim, but it is not required. Creditors whose claims are not scheduled or whose claims are listed as disputed, contingent, or unliquidated must file proofs of claim to participate in the case or share in a distribution. A creditor who relies on the debtor's schedules has the responsibility to determine that the claim is listed accurately. Proofs of claim are filed in the clerk's office, by delivering them either in person or by mail. Forms for a proof of claim are available in the clerk's office.

PURPOSE OF CHAPTER 11 FILING. Chapter 11 of the Code enables a debtor to reorganize its business under a plan described to the creditors. No plan is effective until approved by the court. Creditors will be notified if the case is dismissed or changed to another chapter of the Code. The debtor will remain in possession of its property and will continue to operate its business unless a trustee is appointed.